



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2018-0073; EPA-R04-OAR-2018-0187; FRL-9984-20-Region 4]

Air Plan Approval; SC and TN; Regional Haze Plans and Prong 4 (Visibility) for the 2012 PM_{2.5}, 2010 NO₂, 2010 SO₂, and 2008 Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the portions of South Carolina's and Tennessee's State Implementation Plan (SIP) revisions submitted by these States with letters dated September 5, 2017, and November 22, 2017, respectively, seeking to change reliance from the Clean Air Interstate Rule (CAIR) to the Cross-State Air Pollution Rule (CSAPR) for certain regional haze requirements; converting EPA's limited approvals/limited disapprovals of South Carolina's and Tennessee's regional haze plans to full approvals; removing EPA's Federal Implementation Plans (FIPs) for South Carolina and Tennessee that replaced reliance on CAIR with reliance on CSAPR to address the deficiencies identified in the limited disapprovals of South Carolina's and Tennessee's regional haze plans; and converting the conditional approvals to full approvals for the visibility prongs of South Carolina's infrastructure SIP submittals for the 2012 Fine Particulate Matter (PM_{2.5}), 2010 Nitrogen Dioxide (NO₂), 2010 Sulfur Dioxide (SO₂), and 2008 8-hour Ozone National Ambient Air Quality Standards (NAAQS) and the visibility prongs of Tennessee's infrastructure SIP submittals for the 2012 PM_{2.5}, 2010 NO₂, and 2010 SO₂ NAAQS.

DATES: This rule is effective [Insert 30 days after date of publication in the Federal Register].

ADDRESSES: EPA has established dockets for these actions under Docket Identification Nos. EPA-R04-OAR-2018-0073 (SC) and EPA-R04-OAR-2018-0187 (TN). All documents in the dockets are listed on the www.regulations.gov web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michele Notarianni, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Ms. Notarianni can be reached by telephone at (404) 562-9031 or via electronic mail at notarianni.michele@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

South Carolina and Tennessee submitted infrastructure SIPs that relied on having fully-approved regional haze plans to satisfy the visibility transport provision of Clean Air Act section

110(a)(2)(D)(i)(II).¹ The CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, commonly referred to as an “infrastructure SIP.” This visibility provision, known as “prong 4,” prohibits any source or other type of emissions activity in a state from emitting any air pollutant in amounts which will interfere with measures required to be included in the applicable SIP for any other state to protect visibility. Specifically, South Carolina submitted infrastructure SIPs for the 2008 8-Hour Ozone (July 17, 2012), 2010 NO₂ (April 30, 2014), 2010 SO₂ (May 8, 2014), and 2012 annual PM_{2.5} (December 18, 2015) NAAQS, and Tennessee submitted infrastructure SIPs for the 2010 NO₂ (March 13, 2014), 2010 SO₂ (March 13, 2014), and 2012 annual PM_{2.5} (December 16, 2015) NAAQS.² However, at the time of these submissions, EPA had not fully approved South Carolina’s or Tennessee’s regional haze plan, as the Agency had issued limited disapprovals of these States’ original regional haze plans on June 7, 2012 (77 FR 33642) for South Carolina and April 4, 2012 (77 FR 24392) for Tennessee due to these plans’ reliance on CAIR. In conjunction with the limited disapprovals, EPA promulgated FIPs replacing reliance on CAIR with reliance on CSAPR to address the deficiencies in the regional haze plans for South Carolina and Tennessee. *See* 77 FR 33642 (June 7, 2012).

EPA conditionally approved the aforementioned infrastructure SIP submittals based on letters from South Carolina and Tennessee committing to submit SIP revisions revising their

¹ EPA’s 2013 Guidance on Infrastructure SIP Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2) (2013 Guidance) provides that one way a state may demonstrate that its SIP will ensure that emissions from the state will not interfere with measures required to be in other states’ plans to protect visibility (i.e., to satisfy prong 4) is through confirmation in its infrastructure SIP submission that it has an approved regional haze SIP that fully meets the requirements of 40 CFR 51.308 or 51.309. *See* 2013 Guidance at 33, https://www3.epa.gov/airquality/urbanair/sipstatus/docs/Guidance_on_Infrastructure_SIP_Elements_Multipollutant_FINAL_Sept_2013.pdf.

² EPA notes that the dates of submission reflect the dates on the transmittal cover letters for these infrastructure SIPs.

regional haze plans to replace reliance on CAIR with reliance on CSAPR.³ See 81 FR 56512 (August 22, 2016) (South Carolina) and 82 FR 27428 (June 15, 2017) (Tennessee). In accordance with these commitments to correct the deficiencies in their regional haze plans in order to obtain approval of their infrastructure SIP submittals that rely on fully-approved regional haze plans, South Carolina and Tennessee submitted SIP revisions on September 5, 2017, and November 22, 2017, respectively, to replace reliance on CAIR with reliance on CSAPR for certain regional haze requirements.

On June 4, 2018 (83 FR 25604) and June 20, 2018 (83 FR 28582), EPA published notices of proposed rulemaking (NPRMs) proposing to approve the regional haze portions of South Carolina's September 5, 2017, and Tennessee's November 22, 2017 SIP revisions, respectively; fully approve South Carolina's and Tennessee's regional haze plans; remove the regional haze FIPs addressing the deficiencies in these plans; and approve the prong 4 elements of these states' infrastructure SIP submissions. The specific details of South Carolina's September 5, 2017, and Tennessee's November 22, 2017 SIP revisions and the rationale for EPA's proposed approvals are discussed in the respective NPRMs. EPA received no relevant comments on the NPRMs for South Carolina or Tennessee.

II. Final Action

EPA finds that the relevant portions of South Carolina's September 5, 2017, and Tennessee's November 22, 2017 SIP revisions satisfy the SO₂ and nitrogen oxides (NO_x) best available retrofit technology (BART) requirements; the states' reasonable progress obligations with respect to SO₂ emissions from electric generating units that were previously subject to CAIR; and, in part, the requirement that the states' long-term strategies contain the measures

³ The commitment letters are located in the respective dockets for today's actions.

necessary to achieve reasonable progress.⁴ Accordingly, EPA is approving the regional haze portions of these SIP revisions, determining that the revisions correct the deficiencies that led to EPA's limited approvals/limited disapprovals of these states' regional haze SIPs, and converting EPA's previous actions on South Carolina's and Tennessee's regional haze SIPs from limited approvals/limited disapprovals to full approvals. EPA is also removing the FIPs for South Carolina and Tennessee that replaced reliance on CAIR with reliance on CSAPR to address the limited disapprovals. With the approval of the portions of South Carolina's September 5, 2017, and Tennessee's November 22, 2017 SIP revisions related to regional haze requirements, these states' implementation plans now provide for the measures needed to ensure that their emissions do not interfere with measures required to be included in other states' plans to protect visibility. Therefore, EPA is also converting the conditional approvals to full approvals for the prong 4 portions of Tennessee's 2012 annual PM_{2.5}, 2010 NO₂, and 2010 SO₂ infrastructure SIP submittals and South Carolina's 2012 annual PM_{2.5}, 2010 NO₂, 2010 SO₂, and 2008 ozone infrastructure SIP submittals. All other applicable infrastructure requirements for the infrastructure SIP submissions have been or will be addressed in separate rulemakings.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

These actions are not significant regulatory actions and were therefore not submitted to the Office of Management and Budget (OMB) for review.

⁴ In their regional haze SIPs, South Carolina and Tennessee focused solely on evaluating SO₂ sources contributing to visibility impairment for additional emissions reductions for reasonable progress in the first implementation period. *See* 77 FR 11894, 11904 (February 28, 2012); 76 FR 33662, 33673 (June 9, 2011), respectively. EPA approved the states' ultimate conclusions that no additional controls beyond CAIR were reasonable for SO₂ for affected EGUs during this implementation period. *See* 77 FR 11906-07; 76 FR 33676, respectively.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

These actions are not Executive Order 13771 regulatory actions because these actions are not significant under Executive Order 12866.

C. Paperwork Reduction Act

These actions do not impose an information collection burden under the provisions of the Paperwork Reduction Act, because they do not contain any information collection activities.

D. Regulatory Flexibility Act (RFA)

I certify that these actions will not have a significant economic impact on a substantial number of small entities under the RFA. These actions will not impose any requirements on small entities.

E. Unfunded Mandates Reform Act (UMRA)

These actions do not contain any unfunded mandates as described in UMRA, 2 U.S.C. 1531–1538, and do not significantly or uniquely affect small governments. These actions impose no enforceable duty on any state, local or tribal governments or the private sector.

F. Executive Order 13132: Federalism

These actions do not have federalism implications. They will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

These actions do not have tribal implications, as specified in Executive Order 13175, in Tennessee or South Carolina. It will not have substantial direct effects on tribal governments. EPA has determined these actions do not have substantial direct effects on tribal governments because, as it relates to prong 4, these actions are not approving any specific rule, but rather determining that the approved SIPs for these states meet certain CAA requirements. As it relates to the regional haze SIPs, replacing reliance on CAIR with reliance on CSAPR has no substantial direct effects because the reliance on CSAPR for regional haze purposes in these states already existed through FIPs. The Catawba Indian Nation Reservation is located within the boundary of York County, South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27-16-120, “all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities.” However, EPA has determined that the actions related to South Carolina do not have substantial direct effects on the Catawba Indian Nation for the reasons discussed above. EPA notes today’s actions will not impose substantial direct costs on Tribal governments or preempt Tribal law.

H. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. These actions are not subject to Executive Order 13045 because they do not concern an environmental health risk or safety risk.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect

Energy Supply, Distribution, or Use

These actions are not subject to Executive Order 13211, because they are not significant regulatory actions under Executive Order 12866.

J. National Technology Transfer and Advancement Act

These rulemakings do not involve technical standards.

K. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

EPA believes that these actions do not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

L. Congressional Review Act (CRA)

These actions are subject to the CRA, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. These actions are not a “major rule” as defined by 5 U.S.C. 804(2).

M. Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of these actions must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of these final rules does not affect the finality of these actions for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be

filed, and shall not postpone the effectiveness of such rule or action. These actions may not be challenged later in proceedings to enforce its requirements. See CAA section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate Matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: September 13, 2018.

Andrew R. Wheeler,

Acting EPA Administrator.

40 CFR part 52 is amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401 *et seq.*

Subpart PP—South Carolina

2. Section 52.2120 is amended by adding entries for “110(a)(1) and (2) Infrastructure Requirements for the 2008 8-hour Ozone NAAQS”, “110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour NO₂ NAAQS”, “110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour SO₂ NAAQS”, “110(a)(1) and (2) Infrastructure Requirements for the 2012 Annual PM_{2.5} NAAQS” and “Regional Haze Plan Revision” at the end of the table in paragraph (e) to read as follows:

§52.2120 Identification of plan.

* * * * *

(e) * * *

EPA-approved South Carolina non-regulatory provisions.

Provision	State effective date	EPA approval date	Explanation
**	**	**	*
110(a)(1) and (2) Infrastructure Requirements for the 2008 8-hour Ozone NAAQS.	7/17/2012	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	Addressing prong 4 of section 110(a)(2)(D)(i)(II) only.
110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour NO ₂ NAAQS.	4/30/2014	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	Addressing prong 4 of section 110(a)(2)(D)(i)(II) only.
110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour SO ₂ NAAQS.	5/8/2014	[Insert date of publication in <u>Federal Register</u>] [Insert citation of publication]	Addressing prong 4 of section 110(a)(2)(D)(i)(II) only.
110(a)(1) and (2) Infrastructure Requirements for the 2012 Annual PM _{2.5} NAAQS.	12/18/2015	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	Addressing prong 4 of section 110(a)(2)(D)(i)(II) only.
Regional Haze Plan Revision.	9/5/2017	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	

§ 52.2127 [Removed and Reserved]

3. Section 52.2127 is removed and reserved.

§ 52.2132 [Removed and Reserved]

4. Section 52.2132 is removed and reserved.

Subpart RR—Tennessee

5. Section 52.2220 is amended by adding entries for “110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour NO₂ NAAQS”, “110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour SO₂ NAAQS”, “110(a)(1) and (2) Infrastructure Requirements for the 2012 Annual PM_{2.5} NAAQS” and “Regional Haze Plan Revision” at the end of the table in paragraph (e) to read as follows:

§ 52.2220 Identification of plan.

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(e) * * *

EPA-Approved Tennessee Non-Regulatory Provisions

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State effective date	EPA approval date	Explanation
**	**	*	*	*
110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour NO ₂ NAAQS.	Tennessee	3/13/2014	[Insert date of publication in <u>Federal Register</u>] , [Insert citation of publication]	Addressing prong 4 of section 110(a)(2)(D)(i)(I) only.

110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour SO ₂ NAAQS.	Tennessee	3/13/2014	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	Addressing prong 4 of section 110(a)(2)(D)(i)(I) only.
110(a)(1) and (2) Infrastructure Requirements for the 2012 Annual PM _{2.5} NAAQS.	Tennessee	12/16/2015	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	Addressing prong 4 of section 110(a)(2)(D)(i)(I) only.
Regional Haze Plan Revision.	Tennessee	11/22/2017	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	

§ 52.2219 [Removed and Reserved]

6. Section 52.2219 is removed and reserved.

§ 52.2234 [Removed and Reserved]

7. Sections 52.2234 is removed and reserved.

[FR Doc. 2018-20621 Filed: 9/21/2018 8:45 am; Publication Date: 9/24/2018]